



IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
AMARILLO DIVISION

UNITED STATES OF AMERICA

Plaintiff,

v.

DAVIN SETH WATERS

Defendant.

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2:19-CR-93-Z-BR

**ORDER**

Defendant's January 31, 2020 Unopposed Motion To Extend Date for Filing Written Objections to Presentence Report (ECF 29) is hereby GRANTED, the new deadlines are:

1. The probation officer and parties shall file *written Sentencing Materials* pursuant to the schedule and deadlines set forth in the Paragraph 5 subparts below, which must conform to the writing, reference, and citation standards set forth in **Briefing Rules** detailed in Paragraph 6:
  - a. **Objections to PSR** — Parties objecting to the PSR must file *written* objections — and provide copies to the Court and to the counsel for the opposing party — **no later than February 19, 2020**.
  - b. **Responses to Objections to PSR** — The parties shall file *written* responses to the opposing party's objections to the PSR — and provide copies to the Court and to the counsel for the opposing party — **no later than February 26, 2020**.
  - c. **Addendum** — If written objections to the PSR have been timely filed, the probation officer shall prepare an Addendum to the PSR — and provide copies to the Court and to the counsel for the opposing party — **no later than March 4, 2020**.
  - d. **Objections to Addendum** — Parties objecting to the Addendum must file *written* objections — and provide copies to the Court and to the counsel for the opposing

party — no later than **March 9, 2020**. Parties not objecting to the Addendum must file their written notice of no objections — **no later than March 9, 2020**.

- e. **Replies to Objections to Addendum** — The parties shall file *written* replies to the opposing party's objections to the Addendum — and provide copies to the Court and to the counsel for the opposing party — **no later than March 12, 2020**.
- f. **Exhibits** — The parties shall file *all* Exhibits, and provide copies to the Court and to the counsel for the opposing party — **no later than March 19, 2020**.

2. All written materials — including the **Sentencing Materials** set forth in Paragraph 1 — must conform to the following **Briefing Rules**: the written materials should adequately brief the relevant facts, legal issues, and controlling law. In most cases, the written materials should include:

- a. Relevant jurisprudence from the Supreme Court of the United States, United States Court of Appeals for the Fifth Circuit, United States District Courts in Texas, and state courts, if applicable;
- b. United States Sentencing Guidelines, sections, policy statements, commentary, application notes, and appendices; and
- c. Relevant government memoranda, policy statements, and advisory opinions, and case-specific facts, data, or information relevant to sentencing.

The party submitting written materials may seek, upon showing good cause, a short continuance to comply with these **Briefing Rules**. Absent extraordinary circumstances, the parties will not be permitted to raise facts, issues, and arguments outside the *written Sentencing Materials*.

3. Each party shall deliver to the Court, the probation officer, and counsel for the parties **no later than March 19, 2020**, any other item the party wishes the Court to consider in connection with sentencing, including sentencing memoranda, character letters, and victim statements.<sup>1</sup> No sentencing memorandum

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<sup>1</sup> Character letters and victim statements are **not** to be filed (manually or electronically) with the clerk of Court.

will be longer than 25 pages in length. All character letters and victim statements written in a **foreign language** must be translated into English prior to submission to the Court. At the sentencing, the Court will hear from no more than 3 character witnesses on defendant's behalf.

4. A motion for a sentence above or below the advisory Guidelines range set forth in the PSR must be submitted in a **written form** that expressly states the facts in support and clearly indicates that the party is seeking (1) a "departure" under 18 U.S.C. § 3553(b)(1), Chapter 5, Part K of the Guidelines, (2) a "variance" outside the Guidelines pursuant to the district court's discretionary authority under 18 U.S.C. § 3553(a), or (3) both. *See United States v. Jacobs*, 635 F.3d 778, 782 (5th Cir.2011); *United States v. Herrera-Garduno*, 519 F.3d 526, 530–31 (5th Cir.2008). Such a motion shall be filed electronically with the district court and a copy shall be delivered to the United States Probation and Pretrial Services office **no later than March 19, 2020.**<sup>2</sup>

5. Any party served with a motion for a sentence above or below the advisory guidelines range – whether identified as a departure, variance, or sentencing memorandum – shall electronically file a **written response** with the district court **no later than March 26, 2020.**

6. The sentencing hearing is set for **March 31, 2020 at 1:30 p.m. in Amarillo, Texas, 1<sup>st</sup> Floor Courtroom.**

**SO ORDERED.**

February 3, 2020.

  
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MATTHEW J. KACSMARK  
UNITED STATES DISTRICT JUDGE

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<sup>2</sup> Motions for a sentence above or below the advisory guidelines range, whether seeking a "departure" or "variance," may be filed under seal electronically pursuant to Local Criminal Rule 55.3.